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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/632,377
Applicant(s): Smith *et al.*
Filed: August 1, 2003
Art Unit: 1651
Examiner: Afremova, Vera
Title: METHOD OF ISOLATING STEM CELLS

Confirmation No.: 4161

Docket No.: 045331/262602
Customer No.: 00826

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION BY INVENTOR CLAYTON A. SMITH

I, Clayton A. Smith, hereby declare that:

1. I am a co-inventor, along with O. Michael Colvin, Robert W. Storms, and Susan M. Ludeman, of the invention claimed in the above-identified patent application, which claims priority to U.S. Provisional Patent Application No. 60/111,195, filed December 7, 1998, which has the same inventive entity.
2. I am a co-author of the abstract entitled "Aldehyde Dehydrogenase Activity as a Selectable Phenotype for Hematopoietic Progenitors," which was published in *Blood* 1998, Suppl. Part 1-2: 59A, Vol. 92(10) on November 15, 1998. Co-inventors O. Michael Colvin, Robert W. Storms, and Susan M. Ludeman also are co-authors on this abstract. The *Blood* 1998 abstract discloses work that is subject matter of the above-identified application.
3. At the time of the submission of the *Blood* 1998 abstract, I was employed by Duke University, Durham, North Carolina.
4. Aliana P. Trujillo, James Springer and Lisa Shah were co-workers at Duke University at the time the *Blood* 1998 abstract was prepared and are co-authors on this abstract. These individuals did not conceive of the subject matter claimed in the above-identified patent application and are not co-inventors thereof.

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5. The role of the three additional co-authors listed on the *Blood* 1998 abstract was in the performance of technical services.
6. The *Blood* 1998 abstract was published less than one year prior to December 7, 1998, which is the priority date of the above-identified patent application.
7. In view of the foregoing facts, the *Blood* 1998 abstract is not prior art to the above-identified patent application.
8. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further, these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the above-identified patent application or any patent issued thereon.

Date

6/15/05

Clayton A. Smith

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